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[HOUSE OF REPRESENTATIVES, No. 40.]

HOUSE OF REPRESENTATIVES, Sept. 13, 1862. Read first and second times, placed on Calendar and ordered to be printed.

[By Mr. RUSSELL.]

JOINT RESOLUTIONS

Relating to Martial Law.

1 1. *Resolved by the Senate and House of Representatives,*
2 That martial law, in the sense of an arbitrary suspension of
3 all the laws and civil jurisdictions, cannot exist within the
4 Confederate States.

1 II. Martial law in any sense, if it can exist within the
2 Confederate States, can exist only by virtue of legislative
3 authority.

1 III. Military law (for the government of the forces) is
2 distinct from martial law and it is enacted by Congress
3 in pursuance of the Constitution.

1 IV. Without martial law military commanders may
2 sometimes exert extraordinary powers at and near the

3 places occupied by their troops, and may be justified by
4 the nature and necessities of the service and, therefore,
5 by the laws authorizing the employment of the forces ;
6 but they assume the hazard of responsibility according
7 to known principles of law

1 V. For the security of liberty and the certainty of
2 law, powers which are necessary to be conferred on the
3 President or on military commanders, in lieu of the power
4 to declare martial law within the Confederate States,
5 ought to be conferred by distinct enactments.

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[House of Representatives, No. 5.]

HOUSE, Sept. 13, 1862.—Ordered to be printed.

Martial Law

RESOLUTIONS BY MR. DARGAN.

1 *Resolved*, That martial law, as it was understood in
2 England centuries ago, cannot exist under our form of
3 government ; yet, to a limited extent, when our country
4 is invaded, and the safety of our Army, as well as the
5 protection of our people demand it, martial law may ex-
6 ist.

1 II. Martial law, under our government, suspends no
2 provision of the Constitution, nor any act of Congress :
3 nor does it even suspend the civil law during its reign.
4 as between citizen and citizen ; yet, with these restric-
5 tions it has a field of operation, and may be called into
6 existence when necessity demands it.

1 III. In this limited sense martial law is distinguisha-
2 ble from the military law of the country, which governs
3 the army alike in peace and in war, and it consists in

4 subjecting the people of a particular town or district to
5 the orders and control of the commanding officer.

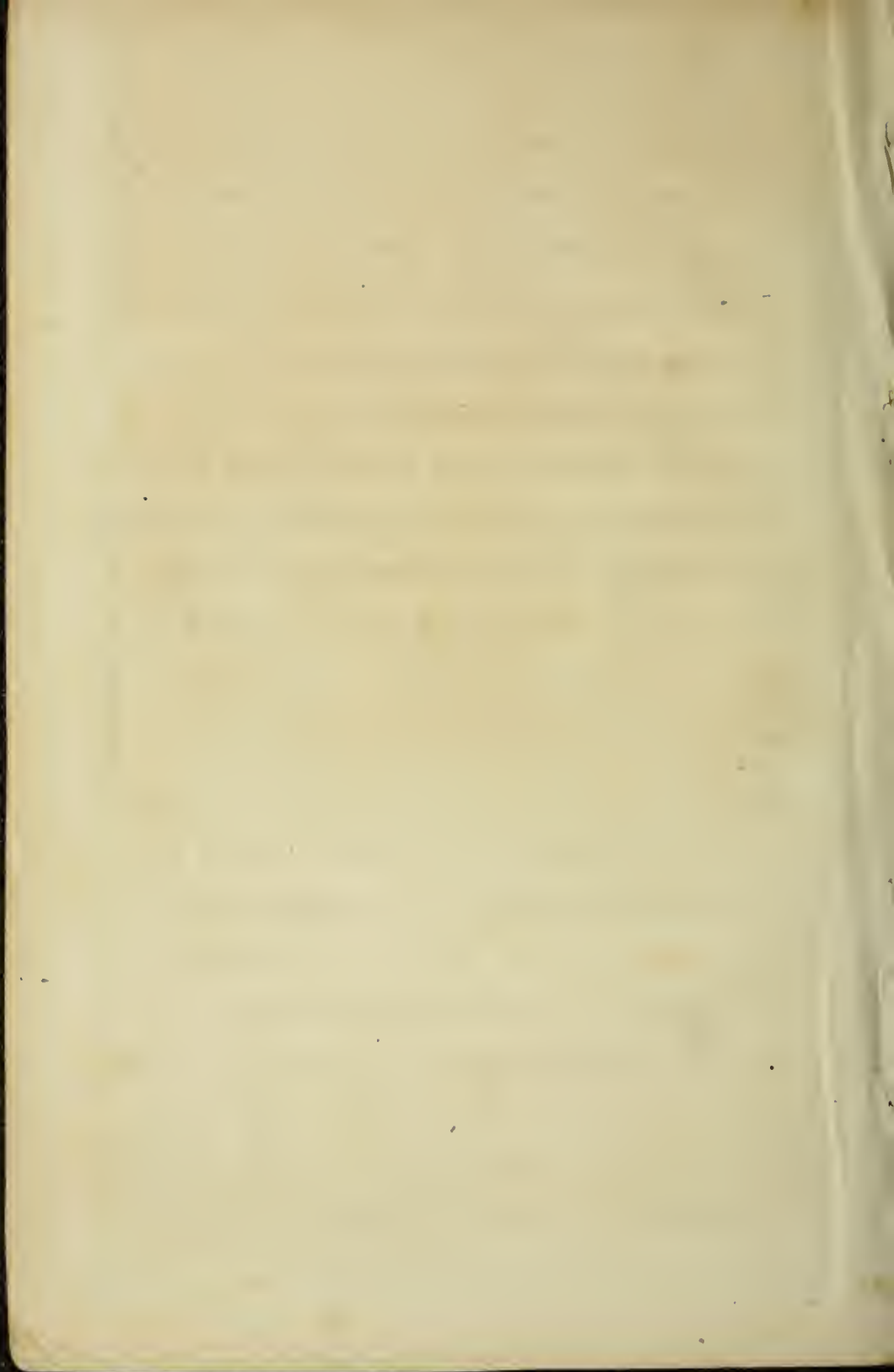
1 IV. It can only be declared in time of war, and only
2 then, when there is a necessity for it, for the preserva-
3 tion of our armies, and for the defence of the particular
4 town or district over which it is declared. The orders
5 and regulations coming from the officer in command, to
6 the citizens of such town or district, under such circum-
7 stances, is martial law, for no other name can be given
8 to them.

1 V. The power or authority to subject the citizen to
2 the orders and control of the military commander, must
3 be an incident to the duty of preserving the army, and
4 the defence of the place, and as this duty is confided by
5 the Constitution in the President, he alone can declare
6 martial law.

1 VI. Martial law operates on the person of the citizen,
2 but does not affect his title or rights of property. It
3 may, however, control the use of particular articles, or
4 the disposition of them, when the uncontrolled use or
5 right of disposition would be injurious to the army, or
6 render the defence of the town or district less secure.

1 VII. The suspension of the writ of habeas corpus by
2 Congress is not martial law, nor has the Constitution in-
3 vested Congress with the power of declaring martial
4 law. Congress may, however, control and limit martial
5 law as it may see fit, as it may any other power inciden-
6 tal to the command of our armies.

1 VIII. When martial law is declared by the President,
2 the limits of its territorial extent should be clearly de-
3 fined by him, and cannot legally exist longer than the
4 necessity, which required its existence, continues.



Habeas Corpus Bill

The Congress of the Confederate States do enact, That during the present invasion of the Confederate States the President shall have power to suspend the privilege of the writ of Habeas Corpus in any City, Town or Military District whenever in his judgment the public safety may require it; but such suspension shall apply only to arrests made by the authorities of the Confederate government or for offences against the same.

2 - The President shall cause proper officers to investigate the cases of all persons so arrested in order that they may be discharged if improperly detained, unless they can be speedily tried in due course of law.

3 - This act shall continue in force for thirty days after the next meeting of Congress and no longer -

Reported by Mr. Russell from
Judiciary Comm. —

Shaleas Corfu

Inspection

Bill of Judiciary
Coince - Mr. Russell
reported - Draft of Mr. McComb

Baldwin's Amendment -
as a substitute.

That it shall be a sufficient answer to the writ of Habeas Corpus in any case that the party in whose behalf it is granted is held in custody upon the warrant of the President of the Confederate States for reasons and upon evidence, filed in writing in the Department of State -

2. It shall be the duty of the President to report to Congress as soon as practicable every case of arrest & confinement upon his warrant as aforesaid with the cause of such arrest & confinement - and he shall when required by either House of Congress transmit the written reasons & evidence filed as aforesaid.

Harlem Corfu
Sensation

Substitute of Mr.
Bodwin - showing
Letters de Cachel.

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